

### **REMARKS**

In accordance with the foregoing, claims 40 and 41 have been added. Claims 1, 2, 5, 10, 11, 13, 15-23, 32, 34, 35 and 39-41 are pending, claims 15-23, 32, 34 and 35 are withdrawn from consideration. Claims 1, 10, 40 and 41 are the independent claims. No new matter has been added.

Newly added independent claim 40 recites a positive active material composition for a rechargeable lithium battery comprising, amongst other novel features, a positive active material comprising at least one lithiated compound; and a thermal-absorbent element-included hydroxide, wherein the thermal-absorbent element included hydroxide is an amorphous Al-included hydroxide, and wherein said thermal-absorbent element-included hydroxide comprises an amount at or between 0.1 weight % and 1 weight % based on the weight of the positive active material composition. None of the references cited teach or suggest such novel features and thus Applicants assert that newly added claim 40 is in condition for allowance.

Newly added independent claim 41 recites a positive active material composition for a rechargeable lithium battery comprising, amongst other novel features, a positive active material comprising at least one lithiated compound; and a thermal-absorbent element-included hydroxide, wherein the thermal-absorbent element included hydroxide is a crystalline B-included hydroxide, and wherein said thermal-absorbent element-included hydroxide comprises an amount at or between 0.1 weight % and 1 weight % based on the weight of the positive active material composition. None of the references cited teach or suggest such novel features and thus Applicants assert that newly added claim 40 is in condition for allowance.

### **DOUBLE PATENTING**

Claims 1, 2, 5, 10, 11 and 13 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-3, 11 and 15 of U.S. Patent No. 6,797,435 (hereafter Kwon '435) in view of Amatucci et al 5,705,291 (hereafter Amatucci).

The rejection of claims 1, 2, 5, 10, 11 and 13 on the grounds of obviousness-type double

patenting as being unpatentable over claims 1-3, 11 and 15 of Kwon '435 in view of Amatucci has been addressed in the amendment after final filed on April 5, 2006.

Claims 1, 2, 5, 10, 11, and 13 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-5 and 12-17 of U.S. Patent No. 6,753,111(hereafter Kwon '111).

The rejection of claims 1, 2, 5, 10, 11 and 13 on the grounds of obviousness-type double patenting as being unpatentable over claims 1-5 and 12-17 of Kwon '435 has been addressed in the amendment after final filed on April 5, 2006.

Claims 1-2, 5, 10-11, and 13 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-15, 28-30, 32-35 of copending Application No. 10/189,384 (*US Patent Application Publication 2003/0054250*).

The rejection of claims 1, 2, 5, 10, 11 and 13 on the grounds of obviousness-type double patenting as being unpatentable over claims 1-15, 28-30 and 32-35 of U.S. Patent Application Publication No. 2003/54250 has been addressed in the amendment after final filed on April 5, 2006.

Claims 1, 2, 5, 10, 11 and 13 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-5 and 23-28 of copending Application No. 10/072923 (*US Patent Application Publication 2003/0003352*) in view of Amatucci.

The rejection of claims 1, 2, 5, 10 and 11 on the grounds of obviousness-type double patenting as being unpatentable over claims 1-15 and 23-28 of US Patent Application Publication No. 2003/3352 in view of Amatucci has been addressed in the amendment after final filed on April 5, 2006.

Claims 1, 2, 5, 10, 11 and 13 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-10 and 25-

37 of copending Application No. 09/897445 (*US Patent Application Publication 2002/0071990*).

The rejection of claims 1, 2, 5, 10, 11 and 13 on the grounds of obviousness-type double patenting as being unpatentable over claims 1-10 and 25-37 of US Patent Application Publication 2002/0071990 has been addressed in the amendment after final filed on April 5, 2006.

Claims 1, 2, 5, 10, 11 and 13 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-10 and 25-37 of copending Application No. 10/627,725 (*US Patent Application Publication 2004/0018429*).

The rejection of claims 1, 2, 5, 10, 11 and 13 on the grounds of obviousness-type double patenting as being unpatentable over claims 1-10 and 25-37 of US Patent Publication No. 2004/18429, has been addressed in the amendment after final filed on April 5, 2006.

**REJECTIONS UNDER 35 U.S.C. §103:**

Claims 1, 2, 5, 10, 11, 13, 38 and 39 are rejected under 35 U.S.C. §103(a) as being unpatentable over Amatucci in view of the Japanese publication JP 09-171813 (hereafter "*the JP '813 publication*").

The rejection of claims 1, 2, 5, 10, 11, 13, 38 and 39 has been addressed in the amendment after final filed on April 5, 2006.

**CONCLUSION:**

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 503333.

Respectfully submitted,

STEIN, MCEWEN & BUI, LLP

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By: Douglas X. Rodriguez  
Douglas X. Rodriguez  
Registration No. 47,269

1400 Eye St., N.W.  
Suite 300  
Washington, D.C. 20005  
Telephone: (202) 216-9505  
Facsimile: (202) 216-9510